

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA

NATIVE AMERICAN GUARDIAN'S
ASSOCIATION

Case No:

Plaintiff

COMPLAINT

-against-

JURY TRIAL DEMANDED

WASHINGTON COMMANDERS, JOSH
HARRIS, MATTHEW LAUX, and THE
NATIONAL CONGRESS OF AMERICAN
INDIANS

Defendants

PRELIMINARY STATEMENT

“How smooth must be the language of the whites, when they can make right look like wrong, and wrong look right.” -Sauk leader Black Hawk.

Our nations narrative is haunted by the displacement and genocide of millions of Native Americans. After white Europeans ravished their land, the Indian Removal Act of 1830 forcibly displaced thousands of Native Americans from the east coast into reservations west of the Mississippi River. Thousands of Native Americans died on the perilous journey west. Skin color, however, is not what oppressors of Native Americans have in common. It is power over the people. Indeed, Native American history and culture is close to being completely eradicated. And it is the powerful who are pressing the delete button. The Native American Guardian's Association (NAGA)

was formed by Native Americans to prevent their history from being eradicated. NAGA represents their people.

NATIVE AMERICAN GUARDIAN'S ASSOCIATION

History books in classrooms across the country do not teach about the tragedies Native Americans suffered over the course of hundreds of years. History books are replete with their triumphs and rich culture. The Native American Guardian's Association was formed as a nonprofit 501(c) (3) organization to ensure that Native American's rich history remain alive in the hearts and minds of all Americans. There are only a handful of members and they do not receive a salary. They are not powerful or connected with politicians. They are a grassroots organization.

If the trail of tears—described above—is not taught to every American, then history will repeat itself. The powerful will oppress the people, and Native Americans will be eradicated forever. NAGA has fought to ensure this never happens. Because if it does, then the people become beholden to the powerful few.

Like their ancestors, NAGA bravely defends their history. NAGA is comprised of Native Americans with modest resources. In fact, they are people of average means. But they are more than average people. Without fear, they defend their very identity from being eliminated. If they are erased from history, they cease to exist. Their identity is all they have left.

NAGA championed an online petition requesting that Washington Commanders owner Josh Harris change the team's name back to the Washington Redskins. NAGA's members were huge Redskin fans precisely because they were the Redskins.

It was the only team in the National Football League (NFL) to honor an actual Native American.¹ They were proud to watch professional football players engage in a different kind of battle, with the stoic face of Chief White Calf on their helmets. They were honoring his courage as well as the bravery, strength, and fearlessness embedded in their history. That was until Josh Harris (Harris) erased him and had his employee defame NAGA to luxury ticket box owners.

JOSH HARRIS

Billionaire owner of the Washington Commanders Josh Harris has more in common with the European Colonists who took land from Native Americans than Native Americans themselves. Mr. Harris is an Ivy League educated Wall-Street businessman. He owns three professional sports teams—including the Commanders—and is worth approximately upwards of eight (8) billion dollars. Mr. Harris's money and power rival the European countries that laid claim to this land hundreds of years ago. Like the men who conquered Native Americans, Josh Harris is erasing their history. Except this time, it will be forever. Mr. Harris is one of the powerful.

NATIONAL CONGRESS OF AMERICAN INDIANS

Ironically, the Commanders is a fitting name for oppressors. Harris claimed to change the team's name because it was "offensive". Working in tandem with Harris is the National Congress of American Indians (NCAI). NCAI is a goliath organization. It is the opposite of grassroots. Sure, it is also a nonprofit. Except it has dozens of

¹ The image on the Redskins helmet was an illustration of Blackfeet Chief John Two Guns White Calf, and the name Redskins refers to a war ceremony warriors conducted before battle.

“tribal investors”, “foundation partners” such as W.K. Kellogg, “Federal Government Partners” such as the Department of Defense, Department of Interior, and the Department of Justice, “business allies” such as Bank of America, Wells Fargo, Key Bank, and Walmart. This is not an organization of the people. It is an organization run by the powerful. Simply because a few of the powerful are Native Americans themselves, does not mean they speak for Native Americans. A Harvard educated lawyer whose most significant interactions with Native Americans are business related for example, is far removed from Native Americans, from the people. NCAI are the powerful.

DEFAMATION

Commanders’ employee Matthew Laux told a concerned former luxury-box owner that NAGA was a “fake group.” Reading between the lines, Laux was attacking the very identity of NAGA’s members. He was calling them “fake” Native Americans. He attacked their very souls. Laux took a page right from the Commanders playbook: selective racism.

CONSPIRACY

With NAGA’s petition receiving over 132,000 signatures, the Commanders had to respond. Savvy businessmen like Josh Harris know better than to publicly attack Native Americans though. Thus, Commander Executives solicited NCAI—friends of the government and big business everywhere—to do it indirectly. Corporations like the Commanders and NCAI understand that public perception is more important than the reality. Thus, NCAI launched its own press release celebrating the

Commanders' decision to keep the Commander name as a victory for Native Americans everywhere. NCAI stated that it was "a meaningful first step toward the Commanders owning the history of its former name and taking accountability for the unspeakable harm caused to tribal citizens after decades of racism and erasure." These hyperbolic, hollow words are the exact tools used by the powerful to make "...the wrong look right."

As the self-proclaimed voice of Native Americans everywhere NCAI and the Commanders did more than attack NAGA's integrity. They silenced over ninety percent of Native Americans who disagree with them. They also silenced Americans. This is demonstrative of the powerful oppressing the people. The Commanders' leadership use a small group of politically connected, elite, Native Americans, to persuade the public that they represent all Native Americans. In turn, the public is more receptive to the Commanders team name. A more receptive public means more season ticket and box holders. Which then equals higher profits. Profit and power are the vehicles through which people like Josh Harris own three professional sports teams. NCAI could not beat the enemy, so it joined them.

NAGA, however, will not be attacked and silenced by the powerful. They will not be ignored. If history repeats itself, Native Americans will be eradicated from the American landscape forever. Their identity is part of the American identity. The defendants must be stopped from erasing it. The first step is to hold the defendants accountable for its false, racist remarks against NAGA and its members.

Accordingly, NAGA commences this action against Defendants for defamation, civil conspiracy, and conspiracy to violate their civil rights.

PARTIES

1. NAGA is a nonprofit currently registered with the Internal Revenue Service as a 501(c3) corporation. NAGA's principal place of business is PO Box 742, Devils Lake, North Dakota 58301. And it is incorporated in the State of North Dakota. NAGA is qualified for federal tax exemption as its organizational mission is to further cultural and ethnic awareness. Eunice Davidson, NAGA's President, is domiciled in North Dakota.
2. The Washington Commanders (Commanders) is a corporation formed under the laws of Maryland, located at 7 St. Paul Street, suite 820, Baltimore, MD 21202. The Washington Commanders are a football team that plays in the National Football League (NFL). As such, the Commanders play in football games in stadiums spanning the entire country. The Commanders also recruit players from every state; including, North Dakota.²
3. At all times relevant herein Josh Harris owned and operated the Washington Commanders.
4. At all times relevant herein Matthew Laux was employed by the Washington Commanders and authorized to speak on its behalf.

² For example, the Commanders recruited quarterback Carson Wentz in 2022. Wentz attended North Dakota State University.

5. The National Congress of American Indians is a 501(c)(4) corporation incorporated in the District of Columbia, with its principal place of business located at 1516 P Street, NW, Washington, D.C. 20005. NCAI is involved in lobbying activities.

JURISDICTION & VENUE

6. This Court has jurisdiction pursuant to 28 U.S.C. §1332(a)(1) since the matter in controversy is between citizens of different states and the amount in controversy exceeds \$75,000.00.
7. Venue is proper because Defendant's defamatory statement was published electronically and directed at an organization headquartered in North Dakota.

STATEMENT OF FACTS

8. The Washington Commanders and the National Congress of American Indians had a monopoly on the narrative of the team's name until NAGA entered the picture.
9. NCAI is not an official tribal organization. It is not a Congress at all.
10. Anyone with money can pay to join NCAI.
11. NCAI is the self-proclaimed voice of Native Americans.
12. Formed in March 1960, NCAI was supposed defend and advocate for Native Americans.
13. Today, NCAI operates to silence Native Americans who do not agree with their agenda.
14. NCAI earns millions of dollars in revenue annually.

15. Whatever good work NCAI does, or does not do, it does not speak for Native Americans on a national scale.
16. NCAI deceives the public into believing it speaks for all Native Americans.
17. Majority of Americans have no experience with Native Americans.
18. Majority of Americans are not educated about Native American history and culture.
19. NCAI exploits this gap in Americans' collective knowledge by appearing as a centralized, official organization for all Native Americans. The words "National Congress" deceptively insinuate that NCAI is some type of governing body. It governs nothing outside of its organization.
20. NCAI does not speak on behalf of any tribe officially recognized by the United States.
21. NCAI does not decide what is, or is not, "offensive" to Native Americans.
22. Native Americans are an extremely diverse population.
23. There are hundreds of tribes recognized by the United States.
24. Native Americans are unique individuals.
25. They do not operate under one, unified, rigid cultural norm.
26. NCAI attacked the Redskins name claiming that it was offensive and disrespectful to Native American culture, amongst many other alleged grievances.
27. Anyone—other than Native Americans—who challenged NCAI's narrative was labeled as racist.

28. NAGA is a small, but mighty, grassroots organization comprised of Native Americans.

29. NAGA's President, Eunice Davidson, is a Dakota Sioux.

30. In the summer of 2023 NAGA championed a petition on change.org (Petition) demanding that the Commander's new owner—Defendant Harris—change their team's name back to the Redskins.

31. The Petition went viral.

32. Currently, the Petition has 132,504 signatures.³

33. According to a poll conducted by the Washington Post in 2016, over 90 percent of Native Americans polled did not find the Redskin name offensive.

34. NAGA's view is that "the name 'Redskins' carries deep cultural, historical, and emotional significance, honoring the bravery, resilience, and warrior spirit associated with Native American culture. It was never intended as a derogatory or offensive term but as a symbol of respect and admiration. Changing the name abruptly disregards the positive legacy that the Redskins name has built over the years and disorients the passionate fans who have invested their emotions, time, and unwavering support in the team. [NAGA] acknowledge[s] the concerns surrounding cultural sensitivity and the need to foster inclusivity. However, [NAGA] firmly believe[s] that there are alternative ways to honor and respect Native American heritage without erasing it..."

³ https://www.change.org/p/change-the-washington-commanders-back-to-the-washington-redskins-3db47898-920b-4ba3-b608-9ffe3b4a0adf?utm_medium=custom_url&utm_source=share_petition&recruited_by_id=6cb1a6e0-1064-11ee-bc9e-f75850683395 (accessed September 24, 2023).

35. NAGA believes that the confusion surrounding the Redskin name is an opportunity to educate through discourse.
36. NCAI and Harris see an opportunity to eradicate.
37. For the first time, other Americans felt free to voice their opinion because of NAGA.
38. NAGA opened the topic for public discourse.
39. Harris closed the door.
40. Public discourse over the team's name threatened ticket sales. Which in turn threatened the Commanders' profit margin.
41. NAGA sent Harris a letter demanding that he include them in the dialogue over the team's name.
42. Harris was aware of NAGA's Petition.
43. Harris ignored NAGA.
44. No one from the Commanders organization reached out to NAGA or its members.
45. The Commanders pretended like NAGA did not exist.
46. Initially, the Commanders tried to silence NAGA internally.
47. On or about August 29, 2023, Matthew Laux, a premium seat sales manager for the Commanders, had a conversation through text message with former luxury box owner, Christina King.
48. Ms. King had boycotted the Commanders in 2020 because they changed their team's name.
49. Ms. King wanted the Commanders to change the name back to the Redskins.

50. She informed Mr. Laux of NAGA's petition.

51. Laux told Ms. King "[y]ou understand the people that started this petition is a fake group right?"

52. Laux continued to try and convince Ms. King to purchase box seats.

53. A source provided the exchange to Fox News, and it was published by Fox News on August 30, 2023.⁴

54. NAGA's members are all Native Americans.

55. NAGA is a 501(c3) nonprofit corporation, duly incorporated in the State of North Dakota.

56. Laux's statement is racist.

57. Laux's statement is false.

58. NAGA is as real, on paper, as NCAI.

59. The ironic difference is that Defendants'—who are not Native American—disagree with Native Americans in NAGA who cherish the Redskin name, while choosing to accept the Native Americans in NCAI's dramatic and hyperbolic criticisms of the name.

60. Therefore, the Defendants tried to silence NAGA's viewpoint by casting doubt on NAGA, and its members, legitimacy as "real" Native Americans.

61. Laux—in his capacity as a representative for the Washington Commanders—called NAGA and its member's fake.

⁴ <https://www.foxnews.com/sports/native-americans-leading-redskins-petition-outraged-washington-commanders-rep-called-fake-group> (last accessed September 23, 2023).

62. Laux stated as truth, that Native Americans like Eunice Davidson, were not Native Americans at all.
63. Conversely, Laux and the defendants tacitly bolstered NCAI, since NCAI prompted them to change the team's name and "considers" the Redskin name to be racist.
64. Laux attacked the very identity of some Native Americans, to pacify the alleged feelings of other Native Americans. Harris and the Commanders favored one group of Native Americans over another—EQUAL—group of Native Americans.
65. This is selective racism. Favoring one group of powerful Native Americans while literally attacking the identity of another is selective racism in action.
66. Laux even agreed that he liked the Redskins name. However, when the powerful few anoint themselves as the moral police, debate and discourse get thrown out the window. Fear and silence only remain.
67. It is long overdue, that white, billionaires like Harris should stop trying to tell Native Americans what they should and should not be offended by. They have been oppressed long enough. They can think for themselves without Harris' great "benevolence."
68. The powerful few, do not get to have a monopoly on the narrative. They cannot eradicate Native American history from the hearts and minds of Americans. They cannot make what is right appear to be wrong by twisting words and misappropriating labels.

69. And they certainly cannot call NAGA's members fake Native Americans in the same breath they pretend to be combating "systemic racism."

70. On or about August 30, 2023, the Commanders told Fox News "[f]or nearly 90 years, this franchise had a different name, and many have fond memories of cheering for that team and watching it win three Super Bowls. This does not signify any shift in our approach nor does it change the valid reasons for dropping the name."⁵

71. Harris and other executives contacted NCAI to issue a press release showing continued support for the Commanders decision. Once again, Harris and the Commanders used NCAI to shape the public's perception and hide the racist remarks coming from within its organization. The powerful oppressing the people.

72. On August 30, 2023, NCAI issued its own press release. ⁶

73. The press release applauds Commanders' President Josh Wright for stating that they will not revisit changing the team's name back to the Redskins.

74. NCAI claims that it is "the oldest, largest, and most representative organization in the United States serving the broad interests of Tribal Nations and Native people."

75. NCAI stated in its press release that "[i]n light of recent interviews where the Commanders new ownership group referenced the [Redskins], NCAI sent a letter extending congratulations on their acquisition and reiterating Indian Country's

⁵ <https://www.fox5dc.com/news/commanders-president-says-team-not-considering-changing-name-back-to-redskins> (last accessed September 23, 2023).

⁶ <https://www.ncai.org/news/articles/2023/08/30/ncai-encouraged-by-washington-commanders-decision-to-leave-the-past-behind> (last accessed September 23, 2023).

long-standing opposition to harmful, unsanctioned Native ‘themed’ mascots and imagery.”

76. The press release further stated “NCAI invited meaningful dialogue on how to truly honor and respect Native peoples, urging ownership to promptly discontinue this practice and publicly commit to refraining from any further use of the pejorative slur . . .”

77. The press release continues “[o]ut of respect for tribal sovereignty, NCAI encourages the Washington Commanders organization to persist in dialogue with duly elected tribal leaders and engage with the communities directly affected by the previous mascot. This call to action extends to other professional franchises, including the Atlanta Braves, Chicago Blackhawks, and Kansas City Chiefs.”

78. NCAI’s press release shows that NCAI was working in tandem with the Commanders. Indeed, NCAI applauds the Commanders after Laux defamed fellow Native Americans.

79. The press release took the spotlight off the defamatory statements and NAGA’s Petition. It normalized the defamatory statements. What does NCAI get in return? More business opportunities. More power.

80. NCAI does not care about Native Americans like NAGA’s members who are dwarfed by its shadow. NCAI is on a mission to eradicate Native American history. The more teams that ignorantly bend, the more power NCAI retains.

81. Upon information and belief, the Commanders continue to call NAGA a fake organization to ticket holders. Except they do not put it in writing. They say it over the phone instead.

82. NAGA is fighting back. It is time for the people to defeat the powerful oppressors.

CAUSES OF ACTION

COUNT 1- DEFAMATION

-Against Defendants Laux and the Commanders-

83. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.

84. N.D. Cent. Code Ann. § 14-02-03 defines civil libel as “a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes the person to be shunned or avoided, or which has a tendency to injure the person in the person's occupation.”

85. N.D. Cent. Code Ann. § 14-02-04 defines civil slander as “a false and unprivileged publication other than libel, which: Charges any person with crime, or with having been indicted, convicted, or punished for crime; 2. Imputes to the person the present existence of an infectious, contagious, or loathsome disease; 3. Tends directly to injure the person in respect to the person's office, profession, trade, or business, either by imputing to the person general disqualifications in those respects which the office or other occupation peculiarly requires, or by imputing something with reference to the person's office, profession, trade, or business that

has a natural tendency to lessen its profits; 4. Imputes to the person impotence or want of chastity; or 5. By natural consequence causes actual damage.”

86. Laux’s statement was written.

87. It was published to Christina King.

88. It was false per se.

89. The statement caused NAGA and its members to be shunned or avoided since it paints them as fake Native Americans pretending to be real Native Americans. Put bluntly, Laux’s statement could be reasonably interpreted to call NAGA and its members “con artists.”

90. Alternatively, and in addition, the statement also constitutes slander.

91. First, it imputes NAGA to be committing a crime insofar as if NAGA were not a 501(c3) organization then NAGA’s members would be engaging in criminal conduct by falsely soliciting contributions under the guise that they would be tax deductible. Further, Laux’s statement suggests that NAGA and its members are committing fraud.

92. More importantly, the statement “[t]ends directly to injure the person in respect to the person’s office, profession, trade, or business, either by imputing to the person general disqualifications in those respects . . . or by imputing something with reference to the person’s office, profession, trade, or business that has a natural tendency to lessen its profits.”

93. The statement directly injures NAGA because it attacks their legitimacy. Which is also an attack on their qualifications as a nonprofit consisting solely of Native

Americans whose mission is to educate Americans about Native American history and culture.

94. Laux made the statement while acting in his official capacity as a representative of the Washington Commanders.

95. Plaintiffs' reputation has been harmed irreparably. NAGA's ability to educate Americans about Native American history has been undermined. NAGA is now perceived as frauds, phonies, and impersonators. Furthermore, Laux and the Commanders unlawfully profit by delegitimizing NAGA and its members.

96. Accordingly, Laux and the Commanders are liable for Libel and Slander.

COUNT 2- CIVIL CONSPIRACY
-Against Defendants Harris, Commanders and NCAI-

97. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.

98. In North Dakota, a civil conspiracy is a combination of two or more persons to accomplish by some concerted action some criminal or unlawful purpose, or some lawful purpose by criminal or unlawful means, to the injury of another.

99. The Washington Commanders, Harris and NCAI are two or more persons.

100. They entered into an agreement to further defame NAGA on or about August 30, 2023, when Harris contacted NCAI to issue a press release. The press releases concealed Laux's defamatory statement from the public's perception, by pretending that it never happened. As such, NCAI gave credence to it by hopping on board the defamation train.

101. On or about August 30, 2023, NCAI issued its press release.

102. On or about August 31, 2023, Harris and the Commanders also issued a press release.

103. Thus, the two press releases were overt acts taken in further of the conspiracy.

Count 3- CONSPIRACY TO VIOLATE CIVIL RIGHTS
42 U.S.C. 1985(3)
-Against Defendants Harris. Commanders and NCAI-

104. Plaintiffs repeat and re-allege every allegation above as though fully set forth herein.

105. “If two or more persons in any State or Territory conspire . . .for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws . . .or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

106. The Commanders, Harris and NCAI are two or more persons existing in the United States.

107. The above-named Defendants conspired to deprive NAGA and its members of the privileges and immunities derived from their national origin, as Native Americans, by working together to silence NAGA entirely.

108. NAGA has a fundamental property right—pursuant to the Fourteenth Amendment— to operate their nonprofit in accordance with their mission of educating the public.

109. Defendants’ conduct deprived them of their property right.

110. Defendants also deprived them, directly and indirectly, of the equal protection of the laws by treating NAGA and its members as second-class citizens while giving deference to the powerful members of NCAI and its message.

111. Defendants further deprived Plaintiffs of the right to defend their heritage and stop Defendants from eradicating Native American history forever.

RELIEF SOUGHT

112. As to the First Cause of Action, Plaintiffs seek monetary damages for \$400,000.00.

113. As to the Second Cause of Action, Plaintiffs seek a monetary damages for one-million dollars (\$1,000,000.00).

114. As to the Third Cause of Action, Plaintiffs seek monetary damages for \$200,000.00.

CERTIFICATION & CLOSING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

Dated: September 23, 2023
Uniondale, NY

Respectfully Submitted,



**CHAD J. LAVEGLIA ESQ.,
LAW OFFICE OF CHAD J LAVEGLIA PLLC
626 RxR Plaza, Suite #613
Uniondale, NY 11556
(631) 450-2468
claveglia@cjllaw.org**